

CITY OF LONDON LAW SOCIETY

LITIGATION COMMITTEE

MINUTES OF MEETING

Date: 30 June 2020, at 5.00pm.

Location: Virtual - Zoom

Present:

Gavin Foggo (Chair)	Fox Williams LLP
Mark Lim (Vice Chair)	Lewis Silkin LLP
Jan-Jaap Baer	Travers Smith LLP
Patrick Boylan	Simmons & Simmons LLP
Andrew Denny	Allen & Overy LLP
Richard Dickman	Pinsent Masons LLP
Angela Dimsdale-Gill	Hogan Lovells LLP
Geraldine Elliott	Reynolds Porter Chamberlain LLP
Daniel Hayward	Fieldfisher LLP
Lois Horne	Macfarlanes LLP
Jonathan Isaacs	DWF LLP
Richard Jeens	Slaughter & May
Jeremy Kosky	Clifford Chance LLP
James Levy	Ashurst LLP
Gary Milner-Moore	Herbert Smith Freehills LLP
Daniel Spendlove	Signature Litigation LLP
Hardeep Nahal	McGuireWoods London LLP

In attendance: Kevin Hart (CLLS), Evie Meleagros (Fox Williams LLP)

Apologies: Richard Foss (Kingsley Napley LLP), Patrick Swain (Freshfields Bruckhaus Deringer LLP).

Minutes of previous meeting

1. The minutes of the 26 May 2020 meeting were approved.
2. It was noted that the Committee on behalf of the CLLS had since submitted a response to the Civil Justice Council Rapid Consultation paper on the impact of COVID-19.

Sub-committees of the Litigation Committee - reports

Disclosure

3. The wider Disclosure Working Group has been revived and a meeting took place on Tuesday 23 June 2020 attended by Richard Dickman, who had also provided some written observations. The papers for the DWG were protected by confidentiality so could not be disclosed to the Committee.
4. In the DWG itself, Flaux LJ is replacing Gloster LJ as chair. The DWG's next Report is in draft at this stage and will be published, probably in the Autumn; its contents remain confidential until then. The Report is expected to reflect a number of observations, concerns and criticisms that have been raised. The tenor of the responses with regard to the reforms introduced by the pilot scheme were largely negative, although it was noted that those with positive feedback were less likely to provide it than those who were critical. The feedback provided in November 2019, to which the Report responds, covered less than a year of the pilot scheme, which was only introduced in January 2019.
5. The Report is expected to extend the pilot scheme for a further year (to December 2021) and to provide some minor amendments to the new Practice Direction and the Disclosure Review Document. There is no appetite on the part of the DWG to return to the old CPR 31. Their ultimate aim is to achieve a culture change in the disclosure process so that it is more efficient, reduces the arguments over disclosure, and enables the process to be tailored to the demands of each case.
6. The Committee's response on behalf of the CLLS to the questionnaire in November 2019 had been considered by the DWG, along with the feedback from others. The Committee awaits the publication of the next Report, and any further opportunities to provide feedback to the DWG.

Costs (including DBAs and litigation funding)

7. The sub-committee has discussed litigation funding and DBAs. It will consider the report of Professor Mulheron and Nicholas Bacon QC when it is published – expected to be in the autumn.
8. There is also the question as to whether litigation funding should be regulated or whether users are content with the status quo. The sub-committee will monitor any developments in this regard.

Technology and court procedures

9. The sub-committee had not yet met. It was suggested that it will review initially changes to technology and court procedures post lockdown.

Diversity and inclusion

10. The sub-committee has not yet met.
11. It was noted that David Lammy (Shadow Justice Secretary) had today asked a question of the Ministry of Justice with regard to the Government's progress in the

implementation of the recommendations of the Lammy Review regarding the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the criminal justice system.

12. It was also noted that there is now a conscious effort to ensure that the composition of the CLLS's practice area committees accurately reflect the profession and London as a whole. At the moment, they do not. This was acknowledged at the main Committee of the CLLS; practice area committees are expected to address their lack of representation.
13. The Committee members were also encouraged to share the diversity and inclusion initiatives being discussed and implemented within their own firms.

Pro bono

14. The sub-committee has not yet met.
15. It was noted that one of the CLLS and CLSC awards was for pro bono.

Representations at other forums

16. Lois Horne has now been appointed to the CLLS seat on the LSLA Committee.
17. Mark Lim attended the Commercial Court users group meeting. The Commercial Court is reportedly satisfied that it is performing at the same level prior to the pandemic. It has stated that there is a greater rate of settlement, however it was not clear whether that was the case. A full note of the meeting will be circulated.
18. Nothing to report from the Court of Appeal users group.
19. The Committee will try and appoint someone to the Chancery Court users group.

Any Other Business

20. An email has been received from David Hobart. The CLLS has been asked by Steven Denier of the International Law group if anybody would like to contribute to the group's telephone meeting on Thursday 2 July. Andrew Denny volunteered to attend.
21. The next scheduled meeting of the Committee is on 29 September 2020, giving the sub-committees time to meet. The Committee will invite Edward Sparrow to attend the next meeting and Kevin Hart will liaise with him separately.